

consideration of changing this sacred document.

My hope is we will have an interesting and significant discussion about this and we will, from this debate, not only turn back the constitutional amendment but probably stimulate a great deal more activity on the part of the States. As I said before, I am willing to either offer an amendment or join others in offering an amendment that will require the States to make these changes. That would accomplish exactly the same thing without amending the U.S. Constitution. We can, in any event, make certain all this applies with respect to the Federal statute and Federal crimes.

My hope is, at the end of it, we will not only have denied the impulse to change the Constitution, but we will have created new energy and new incentives to make certain that victims' rights gain ground in State after State across this country. I will be happy to join others in the coming days, weeks, and months in an effort to accomplish that, because I have strong feelings about this issue. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

ABORTION

Mr. HARKIN. Mr. President, I wish to depart from the debate on the issue before us, which is an important issue. I appreciate the remarks made by my colleague from North Dakota. I listened intently to what he had to say, and I can understand his deep feelings about this issue.

I want to talk about another issue because today, across the street from where we sit in the Halls of the Senate, the U.S. Supreme Court is hearing arguments on a case involving the so-called partial-birth abortion law of the State of Nebraska. That law, passed by the Nebraska Legislature, is quite similar to the version the Senate and the House have debated over the years. In fact, it is very similar to the one passed by the Senate last October.

However, the real issue in the case before the Supreme Court and in the legislation before Congress is not about banning late term abortions. The real issue is about a systematic effort to overturn Roe v. Wade and to criminalize all abortions. The real issue is about whether we trust women, in consultation with their faith and their family, to make this very difficult, personal decision or do we put that trust in politicians? That is what this is really all about.

Last October 21, during debate on the so-called partial-birth abortion bill in the Senate, I, along with Senator BOXER, offered a resolution to this so-called partial-birth abortion bill. Our resolution was very simple. It stated

that it was the sense of the Senate that Roe v. Wade was an appropriate decision and should not be repealed.

Let me read for the record the entire text of that resolution because it was very simple and very straightforward.

(a) Findings: Congress finds that—

(1) reproductive rights are central to the ability of women to exercise their full rights under Federal and State law;

(2) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in Roe v. Wade (410 U.S. 113 (1973));

(3) the 1973 Supreme Court decision in Roe v. Wade established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy; and

(4) women should not be forced into illegal and dangerous abortions as they often were prior to the Roe v. Wade decision.

(b) Sense of Congress: It is the sense of Congress that—

(1) Roe v. Wade was an appropriate decision and secures an important constitutional right; and

(2) such decision should not be overturned.

That is the full text of the resolution that I and Senator BOXER offered last October 21.

By invalidating the laws that forced many women to seek unsafe, and often deadly back-alley abortions, Roe was directly responsible for saving women's lives. It is estimated that as many as 5,000 women a year died from illegal abortions before Roe.

Roe v. Wade is the moderate, mainstream policy on which American women have come to rely. It recognized the right of women to make their own decisions about their own reproductive health. And very importantly, it provides specific protections for the life and the health of women.

So the vote on the Harkin-Boxer amendment last October to finally put the Senate on record about its support for the mainstream Roe decision was very important. It was the first vote directly ever held here on whether the Senate wants to go back to the days of back-alley abortions.

Our amendment barely passed, 51-47. Fifty-one said yes, Roe v. Wade was a good decision, it should not be overturned. Forty-seven Senators voted against that resolution, basically saying they did not agree with Roe v. Wade and that it should be overturned.

Frankly, I was shocked at how close the vote on our amendment was. In fact, in offering the amendment, I thought: Here is a chance for an overwhelming vote of support by the Senate in confirming the Supreme Court decision on Roe v. Wade.

But after that close vote, I then realized that the vote really lifted the veil of moderation of antichoice Senators. For so many who were saying, that they support Roe v. Wade and a woman's right to choose, they just want to ban partial birth abortion, here was the chance to express that. With 47

votes against Roe v. Wade, the veil has been lifted. Now we know what is the real agenda. The agenda is to criminalize choice, criminalize freedom of choice for women.

While the Nation's attention is refocused on the issue of choice with today's Supreme Court case, I also want to shed some light on what has been going on behind the scenes in Congress since the Senate very closely approved our amendment.

What would normally happen is that after the Senate passed the bill with our amendment, the House would act on the Senate-passed bill and request a conference with the Senate to work out the differences between the two bodies. Instead, the House of Representatives avoided a vote on our amendment. They took up a clean bill and sent it over here in order to avoid a conference. So it is clear that the Republican leadership in the House does not want to have to take a vote on this issue. In fact, the House has never had a vote on the issue of support for Roe v. Wade.

Why else would the House majority take the unusual step of punting the bill back to the Senate for a unanimous consent instead of taking it to conference? It is clear the Republican leadership in the House did not want to have a vote, which would be allowed under the House rules to instruct the House conferees to support my amendment in conference, thus putting the House on record, once and for all, as to whether or not they support Roe v. Wade.

Again, the Republican leadership in the House wants to continue to hide their true agenda. They want to hide behind a false cloak of moderation on the issue of choice.

Senator BOXER and I have objected to this latest maneuver. Let me be clear. Every time the so-called partial-birth abortion bill, or any other antichoice legislation, comes to the Senate floor, I will offer my amendment, and there will be another vote on the Roe v. Wade resolution. People in the leadership know that. That is why they have not bothered to bring up any of their antichoice legislation since the last vote on October 21. They know I will offer my amendment every single time to lift their veil of moderation.

So today I am challenging the House Republican leadership to allow a vote on our amendment. Let's let people know where their representatives stand on the basic issue of choice, the basic issue of Roe v. Wade. Because Roe v. Wade is the moderate, mainstream policy on which American women have come to rely. The Roe v. Wade vote in the Senate should send a wakeup call to all Americans that this policy is in jeopardy. They need to act to maintain it.

In this most personal of decisions, we need to trust women, not politicians,

to make the choice. That is what this is all about. Whether it is the case in front of the Supreme Court or whether it is the vote in the Senate, the issue is simply this: Do you trust politicians, whether they are in a State government or in the Federal Government, to make this decision for women or do you trust women?

People of strong faith and good conscience have very different views on the issue of abortion. I respect both sides on this often divisive issue. I have struggled with it personally myself.

Whether or not we agree, we should all work together to find common-sense, common ground steps to reduce the number of abortions and to protect the health and well-being of women and children. That means fully funding maternal and child health programs, fully funding the Women, Infants, and Children's feeding programs, fully funding contraceptive coverage, family planning services, and better adoption options, just to name a few of the policies we ought to be about.

But the bottom line is this: Roe v. Wade was an enlightened decision. It is moderate. It puts the basic decisions on reproductive health where it belongs, with the woman and not with the Government.

Today, as the Supreme Court, across the street, listens to the arguments on the Nebraska partial-birth abortion law, let us resolve that we are going to maintain a woman's basic right to choose, that we will not let the politicians take it over, that we will not return to the dark days of back-alley abortions and the criminalization of a woman's own right to choose her reproductive health. That is what this issue is about.

The women of this country are counting on us to make sure we uphold the decision in Roe v. Wade. We cannot afford to let them down.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I came to the floor of the Senate because I noted that my friend, Senator HARKIN from Iowa, was talking about a very important subject, a woman's right to choose. This right has been protected. After the case Roe v. Wade in 1973, a woman has had that right.

Today we are looking at a different type of constitutional amendment. Senator HARKIN made the point that, in fact, we have a case being heard at the Supreme Court which is going to essentially look at a woman's right to choose. I think it is appropriate that

he would come over to make a few points, and I would like to engage him in a colloquy, if he would be willing to do that.

First, I ask him to reiterate for me the basic point he made. We see in the Senate tens of votes we have to face on the issue of a woman's right to choose and the different aspects of it, whether a person who lives in the District of Columbia can use her insurance paid by the city to obtain a legal abortion, whether a Federal employee has that right, whether a woman in the military has the right to use a clean medical facility to exercise her rights, whether a woman in the late stage of a pregnancy that has turned desperately wrong has the right to have her health protected. We stand here on so many occasions casting these votes, having this debate ostensibly about a narrower issue surrounding a woman's right to choose.

I wonder if my friend believes that is the real goal of the people who continually bring up this matter or whether it is, in fact, something quite deep, which is trying to erode a woman's right to choose, that basic right that was given to her after the Roe v. Wade decision in 1973.

Mr. HARKIN. I thank the Senator from California for her long and strong support for the decision in Roe v. Wade. The Senator from California has been one of the most persistent and enlightened voices in the Senate—indeed, in the country—on protecting a woman's basic right to choose. I follow in her footsteps in many of these issues.

The Senator from California has really put her finger on it, the point I was trying to make today. This partial-birth abortion law that the Supreme Court is reviewing today, as well as the legislation before Congress—is just a smokescreen. It's a smokescreen which anti-choice Members and groups are hiding behind in order to get their eventual goal, which is the total repeal and overturn of Roe v. Wade, to take away the essential and basic fundamental rights about which the Senator just spoke.

Without Roe v. Wade and without that constitutionally protected right of women to have control over their own reproductive health, many of the things about which the Senator just spoke would be gone. There wouldn't be any right for women in the military, there wouldn't be any right for women in the District of Columbia or anywhere else, to have the kind of health coverage that would protect them in dire need when they need help, when perhaps a pregnancy has gone terribly wrong and they need immediate and very intensive medical help.

That was why I wanted to talk about it today. I don't want to interfere in the Supreme Court decision. That is for them to decide over there. What I wanted to point out was that in conjunction with that, here in the Halls of

Congress there is a very dangerous game being played out where proponents of so-called partial-birth abortion really have want to overturn the basic right to choose for women. That is why the two of us joined together last fall to offer that amendment.

I say this because the Senator and I worked together on this amendment. We offered the amendment in good faith, thinking we were going to get an overwhelming vote of the Senate saying, yes, we support Roe v. Wade. I think both of us were shocked at how close we came.

Mrs. BOXER. I was stunned that Roe v. Wade is hanging by a thread in the Senate: 51-49; is that correct? It was very close.

Mr. HARKIN. Mr. President, 51-47; there were a couple of people who were not here.

Mrs. BOXER. There were a couple of Members who were not here. To think that a basic right won by women when we were very young, in 1973, all those years ago, would be hanging by a thread in the year 2000 is really amazing. I really do pray that the Supreme Court, as they independently decide these issues in this particular case of the Nebraska statute will recognize that what the Senator from Iowa says is absolutely true. It is so important.

We have a big debate over some made-up terminology that doesn't even exist in medical books. There is no such thing as partial-birth abortion. There is either a birth or an abortion. That is it. The description of the method used is really a method that is used in the early stages of a pregnancy as well. So if, in fact, that Nebraska case is upheld, women will be denied what is considered by many doctors to be the safest method. That undermines Roe because Roe was a very moderate decision. It basically said that before that fetus is viable, the woman has an unfettered right to choose. But at any stage in the pregnancy, one thing has to come first: the woman's life and the woman's health.

I say to my friend, when we get into a pattern of outlawing specific procedures and playing doctor—by the way, we do have one doctor in this Senate, but he is not an OB/GYN—when we start to play doctor in the Senate, we are going to endanger women's health.

If we start outlawing procedures we don't like—by the way, there is no medical procedure—something that is gruesome or you don't get upset by—if we start doing that, we will overturn Roe right here because we will be saying a woman's health really is subordinate, doesn't matter, and what does it matter if a woman can't have a particular procedural and as a result she is paralyzed or can never bear another child? It would be a disaster, and it would be overturning this basic right.

So I want to say to my friend that I appreciate his leadership. I enjoy working with him on this because we feel so

deeply about it. Before he leaves, I will make one more comment. I trust my friend mentioned this, but I am not sure because I was on my way over here. The House of Representatives denied the House the opportunity to vote on the Harkin-Boxer amendment. The House of Representatives in this year has used a gag rule, if you will, to deny the Members of the House a chance to stand up for or against *Roe v. Wade*. I wonder what they are so afraid of. Are they afraid that some of their Members are so to the right on this issue and so against public opinion, it would hurt them in their reelection?

Now is the time to be heard, when *Roe* is hanging by a thread, and we need to have a vote over there. I hope my friend will continue to press this point, as we say together that it is wrong to deny the House a chance to vote up or down on *Roe*.

I ask my friend for his closing comment on that.

Mr. HARKIN. Again, I appreciate the Senator's very lucid and clear delineation of exactly what is going on here. It was a gag rule in the House. That is what they did. Under their rules, the Republican leadership would not allow a vote on our amendment. Again, I think it is because they don't want their veil of moderation lifted. They want to say this is only about partial birth. It is not, and we know it. It is about *Roe v. Wade*. Yet they don't want to have their people out there voting on it.

I think the American people have a right to know where we stand on this most fundamental right of women in this country.

Again, I thank my friend from California for her long and strong leadership on this issue. It is vitally important to all of us in this country that the basic, fundamental, constitutional rights that were enumerated in *Roe v. Wade* for the women of this country remain, and remain strong, and not be undermined in this body. So I thank the Senator for her strong leadership in this effort.

Mrs. BOXER. I thank my friend. I see the Senator from Arizona on the floor, so I will wrap up.

I think it is interesting and important, as we look at new amendments to the Constitution, that we think about the rights we already take for granted. The women in this country have counted on the Constitution to protect their right to choose. I only hope they will continue to have that right. It is, in fact, hanging by a thread here in the Senate with only 51 votes supporting that basic decision.

So I say it is a day to look at our rights, as we are looking at victims' rights, or their lack of rights, and what ways we want to make sure victims have rights, and that we also consider if a woman is denied a fundamental right to have control over her own

body, if she is denied that, she will be a victim—a victim of this Government thinking that, in fact, it knows better than she or the people who love her, and that the Government would think it would know better than her family, her God, and her conscience to make such a basic decision.

So it is a good day to talk about *Roe v. Wade*. As we look at new rights we are giving people, let's also make sure we don't take away any rights.

I thank the Chair and yield the floor.
The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PROTECT THE RIGHTS OF CRIME VICTIMS—MOTION TO PROCEED—Continued

Mr. KYL. Mr. President, the proponents of the crime victims' constitutional rights amendment, as I understand it, have about 6 minutes remaining. Senator FEINSTEIN has asked that I conclude our portion of this opening debate.

People who are viewing this might wonder what the last 35, 40 minutes have been about. This wasn't supposed to be about abortion. How did that get involved in the crime victims' rights amendment? Perhaps Senator LEAHY began this trend when he first spoke this morning about the possibility of gun control, abortion, and the balanced budget amendment.

I think the point is that people who are not motivated to adopt a constitutional set of rights for crime victims are willing to try to use our hard work, our efforts, and our energy to bring this proposed constitutional amendment to the Senate—which is very difficult to do—as a means of trying to tack on their favorite proposal, or to delay the Senate action on the crime victims' rights amendment to the point that we will have to move on to other pressing business. Either of those possibilities, I think, would be very sad.

Let me recount what has happened here. For almost 4 years, Senator FEINSTEIN and I have worked very patiently to bring forward a crime victims' constitutional rights amendment. It is very difficult to get a constitutional amendment to the floor of the Senate. We have had 66 witnesses appear at hearings, with I think something like 15 pages of testimony transcript. We have had hearing after hearing. We have gone through 63 different drafts to make this as perfect as we could. We have gotten it out of the Judiciary Committee on a strong, bipartisan vote. Then we got the majority leader to give us some floor time, which is very precious.

In other words, we put a lot of work into this in support of victims of vio-

lent crime in our society. Throughout this building, and in others, there are scores of victims and victims' rights organizations around television sets watching these proceedings, having finally gotten what they hope to be their "day in court"—an argument about the crime victims' rights amendment and a vote on that.

What is beginning to emerge is a very disturbing tactic by those who oppose us, and that is either to try to delay this to the point that the majority leader will have to move on to something else, by offering all kinds of extraneous amendments, or by seeking to achieve what they have never been able to achieve through the normal legislative process, by using our proposal as a vehicle to attach their idea onto—in this case, perhaps, abortion. What better way to kill ours while getting some time to discuss their proposal.

Some of these same proponents are those who argue most vigorously against so-called riders to appropriations bills. They say, well, you should not have an extraneous amendment on an appropriation bill. If you are going to bring something to the floor, you should not debate something else. You should not amend it with something extraneous. We are willing to allow germane amendments to victims' rights in an effort to resolve how to best protect victims' rights. But what I fear I have seen here is a tactic either to defeat what we are trying to do or to use what we are trying to do to advance an entirely different agenda. That would be wrong.

The people watching this debate must be saying: There they go again. What are these Senators doing? They had a proposal to bring forth a crime victims' rights amendment to the floor, and, by procedural legerdemain, is that going to be prevented, overcome by an abortion amendment or something of that sort? We hope not. The bottom line is that there is a reason all of the people who support this amendment have said it is now time for a Federal constitutional rights amendment.

As we have seen this morning, States have been unable to protect the rights of crime victims with State statutes and their own State constitutional amendments. Attorneys general and prosecutors support this. Law enforcement supports it. The Attorney General of Wisconsin, Jim Doyle—a very respected Democratic attorney general—said this before the Judiciary Committee:

I believe that most prosecutors strongly support victims' rights.

He notes some of the concerns of prosecutors. He said:

I believe these concerns are more than adequately addressed in S.J. Res. 3.

The bottom line is that we have support from victims' rights groups, prosecutors, attorneys general, and Governors, and it is time now to decide